

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2163 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgement?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

MUNI.CORPN. OF AHMEDABAD

Versus

CHOKSHI TUBE CO. LTD

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 13/04/99

ORAL JUDGEMENT (per M.R. Calla, J.)

Mr.Maulin Raval for the appellant. No one is present for the respondent despite service. Although the Board shows that the notice is not received back, we have verified from the Farad papers relating to this case that the respondent was duly served on 7th April 1995.

2. This First Appeal under Section 411 of the B.P.M.C. Act, is directed against the judgment and order dated 25th August 1992 passed by the Small Causes Court, Court No.2, at Ahmedabad, in M.V. Appeal No.5108 of

1989. It appears from the contents of the memo of appeal that the Municipal Corporation had fixed the Gross Ratable Value of the premises in question at Rs.1,86,232/-. The premises bearing Survey No.60/1 and 60/2 of Ward Special Property N (Vatva - GIDC) was assessed by the Municipal Corporation for the year 1988-89 at Gross Rateable Value as aforesaid, i.e. Rs.1,86,232/-. Against the determination of the Gross Rateable Value as aforesaid as per the assessment of the Municipal Corporation, an appeal under Section 406 of the B.P.M.C. Act was preferred before the Small Causes Court, Court No.2, at Ahmedabad, being M.V. Appeal No.5108 of 1989. The Small Causes Court, in its impugned order dated 25th August 1992, has recorded in paragraph 2 that earlier the very same property, the appellant, i.e. the respondent in the present case had filed M.V. Appeal No.7750 of 1987 for the same premises. That appeal was decided on 21.5.1992 and the Small Causes Court had fixed the Gross Rateable Value of the same premises at Rs.50,400/-. It is also mentioned that there is no change in the premises or its use and occupation since then. Therefore, following its earlier order dated 21.5.1992 which was available with the Court at Exh.8, the same Gross Rateable Value, i.e. Rs.50,400/- has been fixed for the year 1988-89. While assailing this order through this Appeal, the learned Counsel for the Municipal Corporation has not been able to point out any material or any basis to say that the different Gross Rateable Value should have been fixed by the Small Causes Court in the present case at an amount higher than Rs.50,400/-. No material has been placed on record to justify the Gross Rateable Value of Rs.1,86,232/- as has been assessed by the Municipal Corporation. No reason has been given as to why the Small Causes Court should not have followed earlier decision dated 21.5.1992 rendered in M.V. Appeal No.7750 of 1987 with regard to the same property, with regard to the same premises and the use and occupation of the premises remaining the same. In this view of the matter, when nothing has been brought to our notice or argued and urged so as to interfere with the order passed by the Small Causes Court, Court No.2, Ahmedabad, in case of the decision dated 25.8.1992 rendered in M.V. Appeal No.5108 of 1989, we do not find any basis to disturb the said impugned order passed by the Small Causes Court. There is no merit in this appeal. The same is hereby dismissed in the facts and circumstances of the case. No order as to costs.

sreeram.